

REMARKS/ARGUMENTS

The following remarks constitute the full discussion between the Examiner and the undersigned Applicant's Representative in the March 2, 2006 Examiner's Interview. By this Amendment, claims 13, 23, and 29 are amended, leaving claims 1-12, 15-22, and 24-28 unchanged. Claim 14 was canceled in an earlier Amendment.

The Applicant notes that claims 27 and 28 stand rejected as noted on page 2 of the Office Action, although claims 27 and 28 are both dependent upon allowed claim 1. Accordingly, the Applicant hereby requests withdrawal of the 35 U.S.C. § 102(b) rejections of claims 27 and 28, and allowance of claims 27 and 28.

On pages 2 and 3 of the Office Action, claims 13, 15, 16, 18 and 23-29 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,117,519, issued to Thomas. Further, on page 3 of the Office Action, claims 17 and 19-22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Thomas.

Claim 13 is hereby amended, and calls for:

A pillow top layer for a support cushion having an elastic core, the elastic core having a length and a width wherein the length is greater than the width, the pillow top layer comprising:

a plurality of foam strips having a length, a width, and a thickness, the width of each foam strip is substantially the same as the width of the elastic core and greater than the length of each foam strip, wherein adjacent strips have substantially planar facing sides positioned side-by-side to define a substantially gapless structure, wherein the combined length of the plurality of strips is substantially the same as the length of the elastic core; and

wherein the strips are separated from one another by a layer of material.
(Amendment marks not shown).

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a pillow top layer for a support cushion having an elastic core, wherein the pillow top layer comprises foam strips separated from one another by a

layer of material, and in which adjacent strips have substantially planar facing sides positioned side-by-side to define a substantially gapless structure.

In contrast and as discussed with the Examiner in the March 2, 2006 Examiner's Interview with the undersigned Applicant's Representative, Thomas discloses a therapeutic mattress pad 11 adapted to cover a conventional mattress 13, wherein the mattress pad 11 includes pad-enclosing fabric sheets 39, 41, 43 stitched to define tubes 49, 51 in which pads 35, 37 are received, and wherein the pads 35, 37 and tubes 49, 51 have a domed cross-sectional shape. A relatively large angle is defined between the opposite sides of each pad 35, 37. In other words, the sides of adjacent pads 35, 37 are at a substantial angle with respect to one another, rather than having substantially planar facing sides positioned side-by-side to define a substantially gapless structure as claimed in amended claim 13. Accordingly, Thomas fails to teach, describe, or suggest a pillow top layer having a plurality of foam strips separated from one another by a layer of material, wherein adjacent strips have substantially planar facing sides positioned side-by-side to define a substantially gapless structure. Thomas also fails to suggest how the disclosed therapeutic mattress pad 11 could be modified to have such features, nor why such features would be desirable.

In the March 2, 2006 Examiner's Interview with the undersigned Applicant's Representative, these remarks and amended claim 13 were discussed with the Examiner, who indicated that such remarks would be helpful in distinguishing amended claim 13 from Thomas.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 13. Claims 15, 16, and 18 are each ultimately dependent upon amended claim 13, and are allowable based upon amended claim 13 and upon other features and elements claimed in claims 15, 16, and 18 but not discussed herein. Accordingly, the Applicant also respectfully requests withdrawal of the 35 U.S.C. §102(b) rejections of claims 15, 16, and 18.

Claims 17 and 19-22 are also each dependent upon amended claim 13, and are therefore allowable based upon amended claim 13 and upon other features and elements claimed in claims 17 and 19-22 but not discussed herein.

Accordingly, and for other reasons not discussed herein, withdrawal of the 35 U.S.C. §103(a) rejections of claims 17 and 19-22 is respectfully requested.

Claim 23 is hereby amended, and calls for:

A support cushion comprising:

an elastic core; and

a pillow top portion adjacent to the core, the pillow top portion comprising a plurality of foam strips positioned side-by-side and separated from one another only by a material to form a non-continuous but gapless layer on top of the elastic core, wherein adjacent strips have parallel facing side surfaces.

(Amendment marks not shown).

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a support cushion comprising an elastic core and a pillow top portion comprising side-by-side foam strips separated from one another only by a material to form a non-continuous but gapless layer on top of the elastic core, wherein adjacent strips have parallel facing side surfaces.

Thomas discloses a therapeutic mattress pad 11 having fabric sheets 39, 41, 43 stitched to define tubes 49, 51 in which pads 35, 37 are received, wherein the pads 35, 37 and tubes 49, 51 have a domed cross-sectional shape, and wherein a relatively large angle is defined between the opposite sides of each pad 35, 37. In other words, the sides of adjacent pads 35, 37 are at a substantial angle with respect to one another, rather than having parallel facing side surfaces. Thomas fails to teach, describe, or suggest a support cushion comprising an elastic core and a pillow top portion having a plurality of side-by-side foam strips separated from one another only by a material to form a non-continuous but gapless layer on top of the elastic core, wherein adjacent strips have parallel facing side surfaces. Thomas also fails to suggest how the disclosed therapeutic mattress pad 11 could be modified to have such features, nor why such features would be desirable.

In the March 2, 2006 Examiner's Interview with the undersigned Applicant's Representative, these remarks and amended claim 23 were discussed with the Examiner, who indicated that such remarks would be helpful in distinguishing amended claim 23 from Thomas.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 23. Claims 24-26 are each dependent upon amended claim 23, and are allowable based upon amended claim 23 and upon other features and elements claimed in claims 24-26 but not discussed herein. Accordingly, the Applicant also respectfully requests withdrawal of the 35 U.S.C. §102(b) rejections of claims 24-26.

Claim 29 is hereby amended, and calls for:

A pillow top layer for a support cushion having an elastic core, the pillow top layer comprising:

a first elongated foam portion having first and second opposite sides;
a second elongated foam portion extending substantially parallel to the first elongated foam portion and having third and fourth opposite sides, wherein the second side of the first elongated foam portion is parallel and adjacent the third side of the first elongated foam portion, the first and second elongated foam portions collectively defining a substantially planar and contiguous top surface of the pillow top layer; and

a cover covering the first and second elongated foam portions and separating the second side of the first elongated foam portion from the third side of the second elongated foam portion, wherein the cover and the first and second elongated foam portions define a substantially gapless structure.

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a pillow top layer having a first elongated foam portion having first and second opposite sides, a second elongated foam portion extending substantially parallel to the first elongated foam portion and having third and fourth opposite sides, wherein the first and second elongated foam portions collectively define a substantially planar and contiguous top surface of the pillow top layer, and a cover covering the first and second elongated foam portions and separating sides thereof, wherein the cover and the first and second elongated foam portions define a substantially gapless structure.

Thomas discloses a therapeutic mattress pad 11 having fabric sheets 39, 41, 43 stitched to define tubes 49, 51 in which pads 35, 37 are received, wherein the sides of adjacent pads 35, 37 are at a substantial angle with respect to one another, rather than collectively defining a substantially planar and contiguous top surface of the pillow top layer. Accordingly, Thomas fails to teach, describe, or suggest a pillow top layer having first and second parallel and elongated foam portions collectively defining a substantially planar and contiguous top surface, and a cover covering the first and second foam portions and separating sides therein, wherein the cover and the first and second foam portions define a substantially gapless structure. Thomas also fails to suggest how the disclosed therapeutic mattress pad 11 could be modified to have such features, nor why such features would be desirable.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. §102(b) rejection of amended claim 29.

In view of the above amendments and remarks, the Applicant respectfully submits that the claims are patentably distinct over the prior art, that all the rejections to the claims have been overcome, and that the application is in condition for allowance. Entry of this Amendment is therefore requested. If any issues remain outstanding upon entry of this Amendment, the Examiner is invited to telephone the undersigned Applicant's Representative at (414) 225-8266.

Respectfully submitted,



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